

06cv673***

**UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

CHAIRMAN:

Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

Judge Anthony J. Scirica
United States Court of Appeals
Third Circuit

DIRECT REPLY TO:

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April 19, 2007

Michael E. Kunz, Clerk
2609 James A. Byrne U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1797

Re: MDL-875 -- In re Asbestos Products Liability Litigation (No. VI)

(See Attached Order)

Dear Mr. Kunz:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By 
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge James T. Giles
Transferor Judges: Judge James J. Brady, Judge Walter J. Gex III, Judge J. Frederick Motz,
Judge Sue L. Robinson
Transferor Clerks: Felicia C. Cannon, J.T. Noblin, Lawrence Talamo, Peter T. Dalleo

JPML Form 29A

APR 19 2007

DOCKET NO. 875FILED
CLERK'S OFFICE***BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION******IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)******BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR., KATHRYN H. VRATIL, DAVID R. HANSEN AND ANTHONY J. SCIRICA,* JUDGES OF THE PANEL******TRANSFER ORDER***

Before the Panel are motions brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in three actions pending in the District of Delaware, the Middle District of Louisiana, and the District of Maryland, respectively, and twenty actions pending in the Southern District of Mississippi. Movants ask the Panel to vacate the respective portions of its orders conditionally transferring their actions to the Eastern District of Pennsylvania for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge James T. Giles.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Pennsylvania, and that transfer of the actions to the Eastern District of Pennsylvania for inclusion in the coordinated or consolidated pretrial proceedings occurring in that district will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. We find that transfer of these actions is appropriate for reasons expressed by the Panel in its original decision in this docket directing centralization of all pending federal court actions not then in trial involving allegations of personal injury or wrongful death caused by asbestos or asbestos containing products. *See In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415 (J.P.M.L. 1991). Particularly, in the Panel's original decision distinctions based on such matters as the pendency of motions or other matters before the transferor court,¹ the uniqueness of a party's status, the type of defendant, the docket condition of any specific federal district, the stage of pretrial proceedings, the presence of unique

* Judges Motz and Scirica took no part in the disposition of this matter.

¹ Certain plaintiffs have argued that transfer of their actions should be denied or deferred in order to permit the resolution of motions to remand the actions to state court. There is no need to delay transfer in order to accommodate such an interest. We make the following observations: 1) as a practical matter, there is a lag time of at least three or four months from the filing of an action, its identification as a potential tag-along action, issuance of a conditional transfer order, stay of transfer when a party timely objects to the conditional transfer, briefing on the question of transfer, the Panel hearing session, and the issuance of the Panel's subsequent order; 2) Panel Rule 1.5, R.P.J.P.M.L., 199 F.R.D. at 427, expressly provides that the pendency of a conditional transfer order does not in any way i) suspend orders and pretrial proceedings in the district court in which the action that is the subject of the conditional transfer order is pending, or ii) limit the pretrial jurisdiction of that court; and 3) accordingly, those courts wishing to address such motions have adequate time in which to do so, those courts concluding that such issues should be addressed by the transferee judge need not rule on them, and the process of Section 1407 transfer in MDL-875 can continue without any unnecessary interruption or delay.

- 2 -

claims or additional claims not relating to asbestos injury or death, and/or the unanimity of opposition to transfer by the parties to an action, were considered and rejected by the Panel as grounds for carving out exceptions to transfer in this extraordinary docket. We are not persuaded to depart from this approach in dealing with the question of transfer of the actions now before the Panel.

Under the stewardship of the transferee court, as of April 1, 2007, i) over 74,500 actions have been closed in the transferee district, and ii) over 1,350 actions or claims therein have been returned to their originating transferor districts. To any parties that believe the uniqueness of their particular situation renders continued inclusion of their action in MDL-875 unnecessary or inadvisable, whenever the transferee court deems remand of any claims or actions appropriate, procedures are available whereby this may be accomplished with a minimum of delay. *See* Rule 7.6, R.P.J.P.M.L., 199 F.R.D. at 436-38. We are confident that the transferee court will continue to promptly review arguments for returning transferred actions or claims to their transferor courts and will take all appropriate steps to assure their speedy return whenever it is convinced that retention in the MDL-875 proceedings is no longer needed.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A are transferred to the Eastern District of Pennsylvania and, with the consent of that court, assigned to the Honorable James T. Giles for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-875 -- In re Asbestos Products Liability Litigation (No. VI)

District of Delaware

Lillian Harwood, et al. v. Bondex International Inc., et al., C.A. No. 1:06-673

Middle District of Louisiana

Cletus Brewer v. Noble Drilling Corp., et al., C.A. No. 3:06-458

District of Maryland

Joyce Liming, etc. v. ACandS, Inc., et al., C.A. No. 1:06-3280

Southern District of Mississippi

Brandon Kaye Polk v. Phillips 66 Co., et al., C.A. No. 1:06-383

Daniel Livingston v. Phillips 66 Co., et al., C.A. No. 1:06-384

Ralph T. McPhail v. Phillips 66 Co., et al., C.A. No. 1:06-1146

Willie Lee Daniels v. Phillips 66 Co., et al., C.A. No. 1:06-1199

Harvey E. Broom v. Phillips 66 Co., et al., C.A. No. 1:06-1200

Rolland Dearman v. Phillips 66 Co., et al., C.A. No. 1:06-1201

Clinton L. Brady v. Phillips 66 Co., et al., C.A. No. 1:06-1202

Deloise Bullock v. Phillips 66 Co., et al., C.A. No. 1:06-1203

Eliel K. Mounteer, Sr. v. Phillips 66 Co., et al., C.A. No. 1:06-1204

Terry Wallace v. Phillips 66 Co., et al., C.A. No. 1:06-1205

Ray C. Rawls v. Phillips 66 Co., et al., C.A. No. 1:06-1206

Lonnie Newsom v. Phillips 66 Co., et al., C.A. No. 1:06-1207

George Dixon v. Phillips 66 Co., et al., C.A. No. 1:06-1208

Ted L. Piner v. Phillips 66 Co., et al., C.A. No. 1:06-1209

Henry A. Herring v. Phillips 66 Co., et al., C.A. No. 1:06-1210

Joseph Crawford v. Phillips 66 Co., et al., C.A. No. 1:06-1211

Dan Mack Daughdrill v. Phillips 66 Co., et al., C.A. No. 1:06-1212

Tony N. Thomas v. Phillips 66 Co., et al., C.A. No. 1:06-1213

Patrick Curd v. Phillips 66 Co., et al., C.A. No. 1:06-1214

Louie T. Elmer v. Phillips 66 Co., et al., C.A. No. 1:06-1215

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